

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

**LIBERTY MUTUAL FIRE INSURANCE
COMPANY,**

Plaintiff,

v.

THE CLEMONS COAL COMPANY, et al. ,

Defendants.

Case No. 14-2332-CM

MEMORANDUM AND ORDER

The above-listed case is set for jury trial on the court's trial docket beginning **May 9, 2016 at 9:00 AM** in Courtroom #463. The court sets the following deadlines in regard to the upcoming trial, which will supersede any prior deadlines set forth in the pretrial order (Doc. #50):

a. The parties' final witness and exhibit disclosures pursuant to Fed. R. Civ. P. 26(a)(3)(A) shall be filed no later than **April 11, 2016**. The parties' final witness lists shall specify which witnesses will be called live, and which will be called via video deposition. With regard to each witness disclosed under Fed. R. Civ. P. 26(a)(3)(A)(I), the disclosures also shall set forth the subject matter of the expected testimony and a brief synopsis of the substance of the facts to which the witness is expected to testify. Witnesses expected to testify as experts shall be so designated. Witnesses and exhibits disclosed by one party may be called or offered by any other party. Witnesses and exhibits not so disclosed and exchanged as required by the court's order shall not be permitted to testify or be received in evidence, respectively, except by agreement of counsel or upon order of the court. The parties shall file any objections under Fed. R. Civ. P. 26(a)(3)(B) no later than **April 25, 2016**. The

court shall deem waived any objection not timely asserted, unless excused by the court for good cause shown.

b. Consistent with Fed. R. Civ. P. 26(a)(3)(A)(ii), any deposition testimony sought to be offered by a party other than to impeach a testifying witness shall be designated by page and line in a pleading no later than **April 25, 2016**. Any counter-designations in accordance with Fed. R. Civ. P. 32(a)(6), together with any objections to designations made by the offering party, shall be filed no later than **April 27, 2016**. Any objections to the counter-designations shall be filed no later than **April 29, 2016**. The court will not entertain any objections to deposition testimony unless and until the parties have attempted in good faith to resolve the dispute among themselves either in person or via telephone conference. Where the court must resolve disputes concerning presentation of deposition testimony at trial, the party seeking to offer the deposition testimony shall deliver a copy of the deposition at issue to the trial judge no later than **May 2, 2016**. On this copy, those portions of any deposition which is intended to be presented at trial other than for impeachment on cross examination shall be marked by brackets in the margins with different colored highlighting. Red highlighting shall be used to identify the testimony that plaintiff has designated, blue highlighting shall be used by defendant and green highlighting shall be used to identify the objections to any designated testimony. The plaintiff shall write his objections and responses to defendant's objections in the margins of the transcript in black ink, the defendant shall write its objections and responses to plaintiff's objections in the margins in blue ink.

c. Motions in limine shall be filed by **April 25, 2016** and responses thereto shall be filed on or before **April 28, 2016**. Any replies shall be filed by **May 2, 2016**. The court will notify the parties of when a limine conference will be held as the trial date approaches.

d. The parties shall submit proposed jury instructions no later than **May 4, 2016** in accordance with D. Kan. Rule 51.1.

IT IS SO ORDERED.

Dated this 11th day of February, 2016, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge